

BART M. DAVIS, IDAHO STATE BAR NO. 2696
UNITED STATES ATTORNEY
ANN T. WICK, IDAHO STATE BAR NO. 7119
KEVIN T. MALONEY, IDAHO STATE BAR NO. 5095
ASSISTANTS UNITED STATES ATTORNEY
DISTRICT OF IDAHO
801 E. SHERMAN AVE SUITE 192
POCATELLO, ID 83201
TELEPHONE: (208) 478-4166
FACSIMILE: (208) 478-4175

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

REAL PROPERTY LOCATED AT 995
HOMER AVE., IDAHO FALLS, IDAHO,
APN: RPA1800003004O (Record Owner:
Stanley G. Gallegos).

Defendant.

Case No. CV-

VERIFIED COMPLAINT *IN REM*

Plaintiff, United States of America, by and through Bart M. Davis, United States Attorney, and the undersigned Assistant United States Attorney for the District of Idaho, Kevin T. Maloney, brings this complaint and alleges as follows in accordance with Rule G(2) of the Supplemental Rules for Admiralty or Maritime and Asset Forfeiture Actions, Federal Rules of Civil Procedure:

VERIFIED COMPLAINT *IN REM*- 1

NATURE OF THE ACTION

1. This civil forfeiture case is related to a criminal case. The United States will file a motion to stay discovery and other procedures in this civil case until after the criminal case resolves.

2. The United States files this civil Verified Complaint *In Rem* (the “Complaint”) and contemporaneously a Stipulation for Judgment (the “Stipulation”). This civil *in rem* action relates to a criminal case against Stanley Gallegos (the “Claimant”) filed in the U.S. District Court for the District of Idaho, being case number CR-18-110-E-DCN (the “Criminal Case”). Claimant’s criminal liability will be resolved pursuant to his plea agreement in the Criminal Case. The purpose of this civil Complaint and the Stipulation is to resolve Claimant’s potential interest, as an owner or third party claimant, in property subject to forfeiture in the Criminal Case.

3. This is an action to forfeit and condemn to the use and benefit of the United States of America the real property described below in connection with violations of 18 U.S.C. § 2252, activities relating to child pornography. This property is subject to forfeiture pursuant to 18 U.S.C. §§ 2254 and 2253, which provide in pertinent part:

18 U.S.C. § 2254:

Any property subject to forfeiture pursuant to section 2253 may be forfeited to the United States in a civil case.

18 U.S.C. § 2253:

- (a) Property Subject to Criminal Forfeiture.—A person who is convicted of an offense under this chapter involving a visual depiction described in section 2251, 2251A, 2252, 2252A, or 2260 of this chapter or who is convicted of an offense under section 2252B of this chapter, or who is convicted of an offense under chapter 109A, shall forfeit to the United States such person’s interest in—

(1) any visual depiction described in section 2251, 2251A, 2252, 2252A, 2252B, or 2260 of this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of this chapter;

(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense or any property traceable to such property.

THE DEFENDANT *IN REM*

4. The following real property is subject to forfeiture in this civil action (hereinafter “Defendant Property”):

Real property located at 995 Homer Ave., Idaho Falls, Idaho, and more particularly described as follows (APN: RPA1800003004O):

Lot 4, Block 3, Packer Addition, Division No. 1, to the City of Idaho Falls, Bonneville County, Idaho, according to the official plat recorded March 21, 1956 as Recorder’s Number 243763.

5. The Defendant Property has not been seized. However, in association with Stanley Gallego’s Criminal Case, a Lis Pendens was recorded against the property in Bonneville County, Idaho on April 9, 2018 as Instrument No. 1578914. As part of the Plea Agreement (Criminal Case, ECF 20) in the Criminal Case, Stanley Gallegos agreed to the civil forfeiture of his residence as facilitating property pursuant to the crimes alleged under 18 U.S.C. § 2252.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a) and (b) and 1395. This Court also has jurisdiction over this particular action under 18 U.S.C. § 2254.

7. This Court has *in rem* jurisdiction over the Defendant Property under 28 U.S.C.

§ 1355(b)(1), because acts or omissions giving rise to the forfeiture occurred, and the property is found, in this District.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because the events giving rise to the claim occurred in this District and the Defendant Property is situated in this District; and pursuant to 28 U.S.C. § 1395(a) and (b) because the Defendant Property is found in this District. *See also* 28 U.S.C. § 1355(b).

BASES FOR FORFEITURE

9. The Defendant Property is subject to forfeiture pursuant to 18 U.S.C. § 2254 (as defined in 2253(a)(3)) as property used or intended to be used to commit or promote the commission of an offense under Section 2252, relating to property used or intended to be used to promote the exploitation of minors and any property traceable to such offenses.

FACTS

10. The stipulated facts in support of this forfeiture action are set forth in the Stipulation, attached hereto as Exhibit A, and the criminal plea agreement. (Criminal Case, ECF 20 at 2-6.)

TIMING

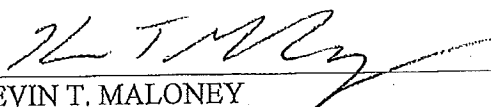
10. Claimant's criminal plea agreement contains a provision wherein Claimant agrees to forfeiture of the Defendant Property, except that, if Claimant pays an amount certain prior to his criminal sentencing, the United States will discontinue the forfeiture action against the Defendant Property. (Criminal Case, ECF 20 at 11-12.) Therefore, the United States will move to stay this civil proceeding until after the criminal sentencing.

CLAIM FOR RELIEF

11. WHEREFORE, the United States of America prays that the Court order the Defendant Property forfeited to the United States, that the Court award the United States' costs and disbursements in this action, and that the Court award such other and further relief as this Court deems proper and just.

Respectfully submitted this 7th day of January, 2019.

BART M. DAVIS
UNITED STATES ATTORNEY
By:



KEVIN T. MALONEY
Assistant United States Attorney

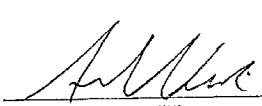
VERIFICATION

I, ANN T. WICK, hereby verify and declare under penalty of perjury that I am an Assistant United States Attorney for the District of Idaho, that I have read the foregoing Verified Complaint *In Rem* and know the contents thereof, and that the matters contained in the complaint are true to my own knowledge, except those matters not within my own personal knowledge which are alleged on information and belief and as to those matters I believe them to be true.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by office staff and law enforcement officers, as well as my involvement in the case.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.

Dated this 7th day of January, 2019.



ANN T. WICK
Assistant United States Attorney
District of Idaho

BART M. DAVIS, IDAHO STATE BAR NO. 2696
UNITED STATES ATTORNEY
ANN T. WICK, IDAHO STATE BAR NO. 7119
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

REAL PROPERTY LOCATED AT 995
HOMER AVE., IDAHO FALLS, IDAHO,
APN: RPA18000030040 (Record Owner:
Stanley G. Gallegos).

Defendant.

Case No. CV-

**STIPULATION FOR JUDGMENT,
DECREE OF FORFEITURE,
AND CERTIFICATE OF REASONABLE
CAUSE**

Plaintiff, United States of America, Bart M. Davis, United States Attorney, and the undersigned Assistants United States Attorney for the District of Idaho (hereafter the "United States"), and the potential Claimant Stanley G. Gallegos ("Claimant"), through his attorney, Paul Ziel, (collectively, the "Parties") and hereby stipulate and agree as follows:

**STIPULATION FOR JUDGMENT, DECREE OF FORFEITURE,
AND CERTIFICATE OF REASONABLE CAUSE - 1**

EXHIBIT A

1. This civil *in rem* action relates to a criminal case against Stanley G. Gallegos ("Claimant") and forfeiture allegations in the criminal case titled *United States v. Stanley Gallegos*, Case No CR-18-110-E-DCN "Criminal Case"). Claimant's criminal liability will be resolved pursuant to his Plea Agreement in the Criminal Case.

2. Claimant's Plea Agreement in the Criminal Case included an agreement to the civil forfeiture of the following (the Defendant Property"):

Real property located at 995 Homer Ave., Idaho Falls, Idaho, and more particularly described as follows (APN: RPA1800003004O):

Lot 4, Block 3, Packer Addition, Division No. 1, to the City of Idaho Falls, Bonneville County, Idaho, according to the official plat recorded March 21, 1956 as Recorder's Number 243763

3. The purpose of the Verified Complaint *In Rem* (the "Complaint") and this Stipulation For Judgment, Decree of Forfeiture, and Certificate of Reasonable Cause (the "Stipulation") in this civil *in rem* action is to resolve Claimant's potential interest, as an owner or third party Claimant of the Defendant Property subject to forfeiture.

4. The Defendant Property is the defendant *in rem* in this civil action.

5. The Parties make this Stipulation to settle any claims of interest of Claimant to the Defendant Property.

6. This agreement also resolves and prohibits any potential interest or claim, of or by, Claimant, his representatives, or any third party on his behalf, in any forfeiture proceeding, whether criminal or civil, in, or related to, the Criminal Case. Claimant, either directly or indirectly through a representative of third party, agrees that he will not file any claim, objection, or appeal, to any future forfeiture action arising out of, or related to, the Criminal Case.

7. The Claimant admits the facts in the Criminal Case as noted in his Plea Agreement. The Parties agree that these facts establish a nexus between the Defendant Property and violations of federal law, as set forth in the Complaint. The Parties agree that this nexus is sufficient to justify forfeiture of the Defendant Property listed in the Complaint.

8. Claimant hereby agrees to forfeit any and all interest he may have in the Defendant Property. Such forfeiture shall occur by entry of Judgment, Decree of Forfeiture and Certificate of Reasonable Cause, forfeiting such property to the United States, and no property right or interest therein shall exist as to any other person or entity. Said property, upon forfeiture, shall be disposed according to law.

9. Claimant agrees that the Complaint establishes a sufficient legal basis for the forfeiture.

10. Claimant hereby represents that he is the sole and exclusive owner of the Defendant Property.

11. Claimant further represents that he has received adequate notice and process herein.

12. The Parties agree that the United States had reasonable cause for the commencement of this action, and for the seizure and forfeiture of the Defendant Property herein, and the Parties stipulate to entry of a certificate of reasonable cause according to 28 U.S.C. § 2465.

13. Claimant hereby releases and forever discharges the United States, its officers, agents, servants and employees, including heirs, successors, or assigns, from any and all actions (related to forfeiture or not), suits, proceedings, debts, dues, contracts, judgment, damages, claims and/or demands whatsoever in law or in equity which Claimant, his heirs, successors, or

**STIPULATION FOR JUDGMENT, DECREE OF FORFEITURE,
AND CERTIFICATE OF REASONABLE CAUSE - 3**

assigns had, have, or may have in connection with the commencement of the Criminal Action, the commencement of this action, or the seizure, detention or forfeiture of the Defendant Property.

14. Claimant further agrees to hold and save harmless the United States, its servants, employees, heirs, successors, or assigns harmless from any claims by any others including costs and expenses for on or account of any and all lawsuits or claims of any character whatsoever, in connection with the forfeiture.

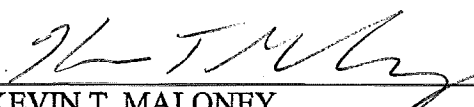
15. Claimant waives any right to appeal or collaterally attack the judgment in this matter.


16. Each of the Parties to this action shall bear its own costs and fees.

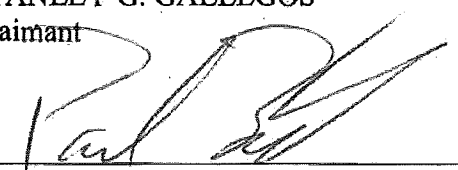
DATED this 2nd day of ~~December~~^{January}, 2018.

BART M. DAVIS
UNITED STATES ATTORNEY
By:


ANN T. WICK
Assistant United States Attorney

 1-7-19
KEVIN T. MALONEY
Assistant United States Attorney


STANLEY G. GALLEGOS
Claimant


PAUL ZIEL
Attorney for Claimant

**STIPULATION FOR JUDGMENT, DECREE OF FORFEITURE,
AND CERTIFICATE OF REASONABLE CAUSE - 4**

JS 44 (Rev. 09/11)

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

UNITED STATES of AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Kevin T. Maloney, AUSA
800 Park Blvd., Suite 600, Boise, ID 83712
208-334-1211

DEFENDANTS

REAL PROPERTY LOCATED AT 995 HOMER AVE., IDAHO FALLS, IDAHO

County of Residence of First Listed Defendant Bonneville
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
18 U.S.C. Sec. 2254 - civil forfeiture of property related to sexual exploitation of children

Brief description of cause:

Forfeiture of residence related to child pornography

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE Honorable David C. Nye

DOCKET NUMBER CR18-110-E-DCN

DATE

01/07/2019

SIGNATURE OF ATTORNEY OF RECORD

Kevin T. Maloney

KTM

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____